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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/262,751 03/04/99 SMITH

R TN-1444-A

EXAMINER

TM02/0314

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ART UNIT

PAPER NUMBER

2681

DATE MAILED:

03/14/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/262,751

Applicant(s)  
Smith

Examiner  
Raymond B. Persino

Group Art Unit  
2681



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1035 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-45 is/are pending in the application

Of the above, claim(s) 1-16 and 21-42 is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 17-20 and 43-45 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3 & 4

☒ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9 and 37-44, drawn to receptacle for a rechargeable battery associated with a audio/radio equipment, classified in class 429, subclass 96.
- II. Claims 10-16 and 21-36, drawn to a protective shield for a audio/radio equipment housing, classified in class 361, subclass 814.
- III. Claims 17-20 and 43-45, drawn to audio/radio equipment associated with a rechargeable battery pack, classified in class 455, subclass 343.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as allowing a piece of audio/radio equipment to be powered from a rechargeable battery and being able to charge the battery. Invention II has separate utility such as providing protection to a audio/radio housing. Invention I has separate utility such as a receptacle for a rechargeable battery associated with a audio/radio equipment See MPEP § 806.05(d).

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3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Adan Ayala (Reg. No. 38,373) on 3/10/2001 a provisional election was made with traverse to prosecute the invention of III, claims 17-20 and 43-45. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-16 and 21-42 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 U.S.C. § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 44 recites the limitation "the radio" in line 3 on page 17. There is insufficient antecedent basis for this limitation in the claim. The examiner recommend to change "the radio" to "the audio circuit". Alternatively the dependancy of claim 44 could be changed from 43 to 45.

***Claim Rejections - 35 U.S.C. § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 17-19, 43 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azzouni (US 4,870,702 A) in view of Hattori (US 5,633,096 A).

Regarding claim 17, Azzouni discloses an audio equipment component having a power supply, a circuit for producing an audio signal connected to the power supply and a charger connected to the power supply that provides power to the battery pack (column 1 lines 7-10, column 2 lines 19-28 and column 2 lines 63-67). However, Azzouni does not disclose a means for disposing the battery pack in the charger and removing the battery pack from the charger. Hattori discloses a holder for a battery pack that allows the battery pack to make electrical connection with a device external to itself when disposed in the holder and having the means to be able to removing the battery pack (column 1 line 36 to column 2 line 40). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the teaching of a removable battery containing means of Hattori utilized in conjunction with the charger in the housing of Azzouni. The combination would allow for easy removal/replacement of batteries. This is particularly beneficial when it is necessary to replace a defective rechargeable battery. Alternatively, this would also allow the battery to be used as a power source for another device.

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Regarding claim 18, see the rejection of claim 17 regarding the subject matter this claim is dependant upon. Hattori further discloses inserting the battery pack into a power tool (column 1 line 36 to column 2 line 40 and figure 6).

Regarding claim 19, see the rejection of claim 17 regarding the subject matter this claim is dependant upon. Azzouni further discloses providing power to the radio circuit while providing power to the battery pack (column 1 lines 7-10, column 2 lines 19-28 and column 2 lines 63-67).

Regarding claim 43, Azzouni discloses an apparatus comprising: a housing; an audio circuit for producing an audio signal disposed in the housing; a charger disposed in the housing; a battery pack; a first electrical circuit in the charger for charging the battery pack and for powering the audio circuit; and a connector for connecting the first electrical circuit to a power source (column 1 lines 7-10, column 2 lines 19-28 and column 2 lines 63-67. However, Azzouni does not disclose a receptacle in the charger and that the battery pack is detachably connectable in a power tool mounted in the receptacle. Hattori discloses a holder for a battery pack that allows the battery pack to make electrical connection with a device external to itself when disposed in the holder and having the means to be able to removing the battery pack with the battery pack detachably connectable in a power tool (column 1 line 36 to column 2 line 40 and figure 6). Therefore it would have been obvious to a person of ordinary skill in the at the time the invention was made to have the teaching of a removable battery containing means of Hattori utilized in conjunction with the charger in the housing of Azzouni. The combination would allow for easy removal/replacement of batteries. This is particularly beneficial when it is necessary to replace a

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defective rechargeable battery. Alternatively, this would also allow the battery to be used a power source for another device.

Regarding claim 45, see the rejection of claim 43 regarding the subject matter this claim is dependant upon. Azzouni further discloses that the audio circuit is a radio circuit (column 2 lines 4-28)

9. Claims 20 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Azzouni (US 4,870,702 A) in view of Hattori (US 5,633,096 A) and further in view of Schaefer et al (US 4,709,201 A).

Regarding claim 20, see the rejection of claim 17 regarding the subject matter this claim is dependant upon. However, neither Azzouni nor Hattori disclose manually switching the power supply to provide power to the radio circuit from the battery pack. Schaefer et al discloses manually switching the power supply to provide power to the radio circuit from the battery pack (column 3 lines 16-65). Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made manually switch the power supply to provide power to the radio circuit from the battery pack. Manual switching will force the operator to be aware of how the audio circuit is being powered. This is beneficial in that it will prevent accidental disruption of power to the audio circuit. For example the operator may think the audio circuit is powered from an AC source when it is in fact powered by the battery. If the operator then removes the battery, there will be no power to the audio circuit. Thus the manual switch helps to inform the operator of the current power source for the audio circuit.

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Regarding claim 20, see the rejection of claim 17 regarding the subject matter this claim is dependant upon. However, neither Azzouni nor Hattori disclose that the connector is adapted for connection to be an AC power source, and the apparatus further comprising a second electrical circuit connectable to be the battery pack for powering the radio when the connector is disconnected from an AC power source. Schaefer et al discloses a connector adapted for connection to be an AC power source, and a second electrical circuit connectable to be a battery pack for powering a radio when the connector is disconnected from an AC power source (column 3 lines 16-65). Therefore it would have been obvious to be a person of ordinary skill in the at the time the invention was made manually switch the power supply to be provide power to be the radio circuit from the battery pack. Manual switching will force the operator to be to be aware of how the audio circuit is being powered. This is beneficial in that it will prevent accidental disruption of power to be the audio circuit. For example the operator may think the audio circuit is power from an AC source when it is in fact powered by the battery. If the operator then removes the battery, there will to be no power to be the audio circuit. Thus the manual switch helps to be inform the operator of the current power source for the audio circuit.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to be applicant's disclosure.

Matt et al (US D418,836 A) discloses an ornamental design for a radio.



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11. Any inquiry concerning this communication or earlier communications from the examiner should to be directed to be examiner Raymond Persino whose telephone number is (703) 308-7528. The examiner can normally to be reached on Monday-Thursday from 8:00 AM to be 5:30 PM. The examiner can also to be reached on alternate Fridays from 8:00 AM to be 4:30 PM.

If attempts to be reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost, can to be reached on (703) 305-4778. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-9508.

Any inquiry of a general nature or relating to be the status of this application or proceeding should to be directed to be the receptionist whose telephone number is (703) 305-3900.

**Any response to be this action should to be mailed to be:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to be:**

(703) 308-6306, (for formal communications intended for entry and

informal or draft communications, please label "FORMAL,"

"PROPOSED," or "DRAFT")

Hand-delivered responses should to be brought to be Crystal Park II, 2121 Crystal Drive, Arlington.

VA., Sixth Floor (Receptionist).

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Ray Persino

*RP*

March 12, 2001

*Tracy Legree*  
**TRACY LEGREE**  
**PRIMARY EXAMINER**